

TITLE 11  
ENFORCEMENT OF JUDGMENTS IN CIVIL ACTIONS

CHAPTER 7  
GARNISHMENTS

11-701. DEFINITIONS. As used in this chapter:

(1) "Continuing garnishment" means a garnishment of wages of the judgment debtor that continues, subject to the limitations found in section [11-705](#), Idaho Code, until the debt is satisfied.

(2) "Disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld. This does not include amounts due to or received by a taxpayer in the form of an Idaho income tax refund.

(3) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(4) "Financial institution" means any state bank, national bank, trust company, savings and loan association, savings bank, federal savings and loan association, federal savings bank or credit union, as those terms are defined in [title 26](#), Idaho Code, or any federal credit union organized under the federal credit union act, 12 U.S.C. 1751, et seq., or a state credit union organized under the Idaho credit union act in [chapter 21, title 26](#), Idaho Code. The term also includes any other institution that holds and receives deposits, savings or share accounts; issues certificates of deposit; or provides to its customers any deposit accounts that are subject to withdrawal by check, instrument, order or electronic means to effect third-party payments.

(5) "Garnishee" means a person or institution that is indebted to or is in possession of property, money or credits of a debtor whose property has been subjected to garnishment.

(6) "Garnishment" means a judicial proceeding in which a creditor or potential creditor asks the court to order a third party who is indebted to, or is in possession of, property, money or credits of the debtor to turn over to the creditor any of the debtor's property, money or credits held by that third party.

(7) "Wage garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

[11-701, added 2017, ch. 303, sec. 9, p. 803.]

11-702. TIME WHEN RETURNABLE -- RECORD IN EXECUTION BOOK. A garnishment execution may be made returnable at any time not less than ten (10) but not more than ninety (90) days after its receipt by the sheriff, to the clerk with whom the judgment roll is filed. When the execution is returned, the clerk must attach it to the judgment roll and record the execution and the return thereto at large, and certify the same under his hand as true copies in a book to be called the "execution book," which book must be indexed with the names of the judgment creditors and judgment debtors in execution alphabetically arranged, and kept open at all times during office hours for the inspection of the public without charge. It is evidence of the contents of the originals whenever they, or any part thereof, may be destroyed, mutilated or lost.

[11-702, added 2017, ch. 303, sec. 9, p. 804.]

11-703. GARNISHMENT -- SERVICE OF WRIT OF EXECUTION OR GARNISHMENT -- FINANCIAL INSTITUTIONS. (1) Upon receiving written directions from the judgment creditor or his attorney, that any person or corporation, public or private, has in his or its possession or control, any credits or other personal property belonging to the judgment debtor, or is owing any debt to the judgment debtor, the sheriff shall serve upon any such person, or corporation identified in the judgment creditor's written directions all of the following documents:

- (a) A copy of the writ;
- (b) A notice that such credits, or other property, or debts, as the case may be, are attached in pursuance of such writ;
- (c) A notice of exemptions available under federal and state law;
- (d) Instructions to debtors and third parties for asserting a claim of exemption;
- (e) A form for making a claim of exemption; and
- (f) If the garnishee is a financial institution, a search fee of five dollars (\$5.00) and the last known mailing address of the judgment debtor and, if known, a tax identification number that will enable the garnishee to identify the judgment debtor on its records.

The documents specified in paragraphs (c) through (e) of this subsection shall be in a form as provided in section [11-707](#), Idaho Code.

(2) In case of service upon a corporation including, but not limited to, any financial institution, the same may be had by delivering a copy of the papers to be served, if upon a private corporation, to any officer, manager or designated agent thereof, and if upon a public or municipal corporation, to the mayor, president of the council or board of trustees, or any presiding officer, or to the secretary or clerk thereof.

(3) In the event a financial institution operates more than one (1) office where deposits are received within the state of Idaho, the banking or trust corporation may, by notifying the Idaho department of finance, designate a particular office for the service of attachment, execution and garnishment papers. Such office may be located either within or outside the state of Idaho. The Idaho department of finance shall post the list of such designated offices on its web page for access by the public.

If a financial institution operating more than one (1) office where deposits are received has designated a particular office for the attachment, execution, or garnishment, then service of such papers made on the office so designated shall be valid and effective as to moneys to the judgment debtor's credit held in the possession or control of any of the financial institution's branches or offices located within or outside the state of Idaho.

If service of the attachment, execution or garnishment papers is not made on the designated office of the financial institution, but instead is made on another office of the financial institution located in the state of Idaho, then service of such papers shall be valid and effective as to moneys to the judgment debtor's credit in that particular office and as to other personal property belonging to the judgment debtor held in the possession or control of that particular office, but shall only become valid and effective as to moneys to the judgment debtor's credit held in the possession or control of any of the financial institution's other offices upon receipt of the attachment, execution or garnishment papers by the designated office. Such financial institution may, but is under no obligation to, transmit the

original or a copy of the papers from the particular office served to the designated office.

Service on any financial institution is effective as against the moneys and other personal property to the judgment debtor's credit which are in the possession or control of the financial institution named in the garnishment, but not any affiliate, parent or subsidiary not named. If the garnishment fails to sufficiently distinguish the financial institution from any affiliate, parent or subsidiary thereof, such that it is not clear which entity is intended to be the garnishee, the garnishment may be returned unsatisfied.

(4) The provisions of this section and sections [11-706](#), [11-707](#), [11-709](#) and [11-710](#), Idaho Code, shall apply to any levy by execution pursuant to [chapter 5, title 8](#), Idaho Code.

[11-703, added 2017, ch. 303, sec. 9, p. 804.]

11-704. EMPLOYER -- CONTINUOUS GARNISHMENT. When the garnishee is the employer of the judgment debtor, the judgment creditor, upon application to the court, shall have issued by the clerk of court, a continuing garnishment directing the employer-garnishee to pay to the sheriff such future moneys coming due to the judgment debtor as may come due to said judgment debtor as a result of the judgment debtor's employment. This continuing garnishment shall continue in force and effect until the judgment is satisfied. The judgment creditor shall be solely responsible for ensuring that the amounts garnished do not exceed the amount due on the judgment. If additional garnishments are issued during the term of a continuing garnishment and the continuing garnishment is the maximum allowed under the provisions of section [11-712](#), Idaho Code, the additional garnishments cannot be served until the continuing garnishment is satisfied, or until the amount taken by the continuing garnishment is less than the maximum allowed. Additional garnishments issued during the term of a continuing garnishment must be served in the order in which presented.

[11-704, added 2017, ch. 303, sec. 9, p. 805.]

11-705. SHERIFF'S RETURN ON CONTINUOUS WAGE GARNISHMENT AND CONTINUOUS GARNISHMENT FOR CHILD SUPPORT. (1) In the case of continuing garnishments for wages, the sheriff shall file interim returns at intervals not to exceed fourteen (14) days, whenever the amount collected in the fourteen (14) day period is at least one hundred dollars (\$100), but in any event, interim returns on such continuous garnishment shall be filed by the sheriff at intervals not to exceed sixty (60) days.

(2) Where an execution or garnishment against earnings or unemployment benefits for a delinquent child support obligation is served upon any person or upon the state of Idaho and there is in possession of such person or the state of Idaho any such earnings or any unemployment benefits of the judgment debtor, the execution and the garnishment shall operate continuously and shall require such person or the state of Idaho to withhold the nonexempt portion of earnings or unemployment benefits at each succeeding earnings or unemployment benefits disbursement interval until released by the sheriff at the written request of the judgment creditor or until the judgment for child support debt, in the dollar amount specifically set forth on the writ of execution and subject to garnishment as of the date the writ of execution is issued, is discharged or satisfied in full; provided however, that interim returns on such continuous execution or garnishment shall be filed

by the sheriff at intervals not to exceed fourteen (14) days, whenever the amount collected in the fourteen (14) day period is at least equal to fifty dollars (\$50.00), but in any event, interim returns on such continuous garnishment shall be filed by the sheriff at intervals not to exceed thirty (30) days. The proportion of earnings subject to garnishment as compared to total available earnings or unemployment benefits shall be limited to the percentage restrictions on garnishment of wages for child support as provided in section [11-712](#), Idaho Code.

[11-705, added 2017, ch. 303, sec. 9, p. 805.]

11-706. DOCUMENTS TO BE PROVIDED BY JUDGMENT CREDITOR -- DUTIES OF SHERIFF -- SERVICE AND MAILING CRITERIA -- TIME COMPUTATION. With respect to any garnishment or execution, the judgment creditor shall provide the sheriff with sufficient copies of the writ and other documents required to be served for service on the judgment debtor and each additional party identified in the judgment creditor's written directions and shall provide an envelope addressed to each person required to be served. If the documents are to be mailed, proper postage shall be affixed. The sheriff shall not delay service for lack of sufficient copies or postage and shall make any additional copies and affix any additional postage necessary. The sheriff may charge the judgment creditor for the actual costs of any additional copies and postage required, which costs shall be in addition to the fees permitted under section [11-729](#), Idaho Code.

Personal service shall be accomplished in the same manner provided for service of summons under the Idaho rules of civil procedure. Provided however, that in the case of garnishments the county sheriff shall have the option of accomplishing personal service by United States certified mail, return receipt requested, or United States first class mail with a facsimile or electronic mail acknowledgment of such service by the garnishee. Unless otherwise provided to the contrary, the date when an item is deposited in the United States mail shall constitute the date of mailing and the date of service shall be the date when the garnishee signs the return receipt for the certified mail or the date the garnishee sends its facsimile or electronic mail acknowledgment of service. In computing any period of time within which an act is to be accomplished, the day of the act after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it falls on a weekend or legal holiday, in which event the period runs until the close of business of the first business day after the weekend or holiday, except that this provision shall not extend the time within which hearing on a motion to contest a claim of exemption or third-party claim must be set as provided in section [8-540](#), Idaho Code, and section [11-203](#), Idaho Code.

The sheriff shall not be required to investigate or assure the accuracy and completeness of the addresses of the parties to be served or any other information provided by the judgment creditor.

[11-706, added 2017, ch. 303, sec. 9, p. 806.]

11-707. FORMS FOR NOTICE OF EXEMPTIONS, INSTRUCTIONS TO DEBTORS AND THIRD PARTIES AND CLAIM OF EXEMPTION. The forms used for notice of exemptions, instructions to debtors and third parties and claims of exemption shall be those prescribed by rules promulgated or orders issued by the supreme court and posted on the website of the supreme court. The forms

shall be made available in English and Spanish language translations in the offices of each county sheriff. Notice, written in Spanish, of the availability of these documents in Spanish translation shall be set forth on the notice of exemptions.

[11-707, added 2017, ch. 303, sec. 9, p. 806.]

11-708. INTERROGATORIES SUBMITTED TO GARNISHEE. Written interrogatories shall be delivered to the garnishee at the time of serving notice of garnishment. The interrogatories shall be in a form prescribed by rules promulgated or orders issued by the supreme court.

[11-708, added 2017, ch. 303, sec. 9, p. 806.]

11-709. SERVICE ON JUDGMENT DEBTOR AND THIRD PARTIES BY SHERIFF. Within two (2) business days after service of the writ and other documents as provided in section [11-703](#), Idaho Code, or if service is upon a financial institution, within one (1) business day, the sheriff shall hand deliver or mail to the judgment debtor and any third party named in the judgment creditor's written directions as a co-owner or having an interest in the property or money to be levied upon, one (1) copy of all the documents and if the garnishee is a financial institution, the search fee and other information specified in section [11-703](#)(1), Idaho Code. The judgment creditor shall identify in the judgment creditor's written directions the last known mailing address of the judgment debtor and any third party to be served. The sheriff shall indicate on the return of the writ filed with the court the date and manner of service upon the judgment debtor and any third party and shall indicate the documents served.

If at the time of service of the writ the sheriff receives written answer from the garnishee stating that it has no money or other personal property belonging or owing to the judgment debtor, compliance with the provisions of this section shall not be required.

[11-709, added 2017, ch. 303, sec. 9, p. 807.]

11-710. SERVICE ON JUDGMENT DEBTOR AND THIRD PARTIES BY A FINANCIAL INSTITUTION. If the writ and notice of garnishment are served upon a financial institution holding money or accounts belonging to the judgment debtor, the garnishee shall within three (3) business days after such service, mail or hand deliver a copy of all documents served upon it by the sheriff:

(1) To the judgment debtor at the address to which account statements or other pertinent account documentation are normally sent, or if the money is not in an account, to the last known address of the judgment debtor shown upon the records of the garnishee at the time of service upon it of the writ; and

(2) To any other person shown upon the records of the garnishee as a co-owner or having an interest in the money or accounts garnished at the last known address of the third party shown upon the records of the garnishee at the time of service upon it of the writ.

The financial institution shall be entitled to deduct a single fee of not to exceed ten dollars (\$10.00) from the money transferred to the sheriff pursuant to the garnishment to cover the costs associated with the processing and service of the documents. The fee herein provided shall be the only processing and service fee to which the financial institution is entitled regardless of the number of parties to which documents are sent and is in

addition to the search fee specified in section [11-703](#)(1)(f), Idaho Code. Upon being notified by the sheriff that money transferred pursuant to the garnishment has been released as a result of a court determination that the money is exempt or a failure by the judgment creditor to contest the claim of exemption, the garnishee shall recredit the fee to the judgment debtor's account or reimburse the judgment debtor therefor and the judgment creditor shall reimburse the garnishee for the fee.

The garnishee shall indicate in the answer to interrogatories as provided in section [11-708](#), Idaho Code, the date and manner of service of the documents upon the judgment debtor and any third party as herein required but shall not be required to disclose the names or addresses of any third party served.

The garnishee shall only be required to serve on the judgment debtor and any third-party copies of those documents served upon it by the sheriff.

[11-710, added 2017, ch. 303, sec. 9, p. 807.]

11-711. CLAIM OF EXEMPTION BY JUDGMENT DEBTOR. The judgment debtor in the main action may file a claim of exemption setting forth any facts showing that the debt or the property with which it is sought to charge the garnishee is exempt from execution, or for any other reason is not liable for the judgment creditor's claim, and if issue thereon be joined by the judgment creditor it shall be tried with the issues as to the garnishee's liability, and if the property or debt, or any part thereof, is found to be thus exempt or not liable, judgment shall be rendered accordingly.

[11-711, added 2017, ch. 303, sec. 9, p. 807.]

11-712. RESTRICTION ON WAGE GARNISHMENT -- MAXIMUM. (1) Except as provided in subsection (2) of this section, the maximum amount of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment shall not exceed:

- (a) Twenty-five percent (25%) of his disposable earnings for that week; or
- (b) The amount by which his disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by 29 U.S.C.A. 206(a)(1) in effect at the time the earnings are payable, whichever is less.

In the case of earnings for any pay period other than a week, the Idaho commissioner of labor shall by regulation prescribe a multiple of the federal minimum hourly wage equivalent in effect to that set forth in paragraph (b) of this subsection.

(2) (a) The restrictions of subsection (1) of this section shall not apply in the case of any order of any court for the support of any person, any order of any court of bankruptcy under chapter XIII of the bankruptcy act, or any debt due for any state or federal tax.

(b) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed:

- (i) Where such individual is supporting his spouse or dependent child, other than a spouse or child with respect to whose support such order is used, fifty percent (50%) of such individual's disposable earnings for that week; and



(ii) Where such individual is not supporting such a spouse or dependent child described in subparagraph (i) of this paragraph, sixty percent (60%) of such individual's disposable earnings for that week; except that with respect to the disposable earnings of any individual for any workweek, the fifty percent (50%) specified in subparagraph (i) of this paragraph shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in this subparagraph shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek.

[11-712, added 2017, ch. 303, sec. 9, p. 808.]

11-713. DEPOSITS INTO FINANCIAL INSTITUTIONS NOT SUBJECT TO GARNISHMENT. (1) Money, funds, benefits and personal property that are exempt from execution as provided in section [11-604](#)(1), Idaho Code, including payable or paid for disability and illness, alimony, support and child support, as a result of bodily injury, wrongful death and the death of an insured shall remain exempt in an account at a financial institution.

(2) Wages that are exempt from execution as provided in sections [11-207](#) and [11-712](#), Idaho Code, shall remain exempt when deposited into an account at a financial institution. This subsection shall not apply to any accumulation of wages greater than seven thousand five hundred dollars (\$7,500).

(3) All funds that are exempt under federal and state law; section [11-603](#), Idaho Code, including social security, SSI and veteran benefits, federal and state public assistance, medical savings accounts, child support payments deposited by the Idaho department of health and welfare, and unemployment benefits; section [11-604A](#), Idaho Code, retirement and pension benefits including public employee retirement system of Idaho (PERSI) and United States government benefits; and section [72-802](#), Idaho Code, worker's compensation benefits shall remain exempt without limitation when deposited into an account at a financial institution.

(4) The application of subsections (1), (2) and (3) of this section shall not be affected by the commingling of exempt and nonexempt funds in an account. For the purposes of identifying exempt funds in an account, first in, first out accounting principles shall be used.

(5) The provisions of this chapter shall not prevent a debtor from claiming any exemption that otherwise may be available under law for any amounts garnished from an account at a financial institution.

[11-713, added 2017, ch. 303, sec. 9, p. 808.]

11-714. FINANCIAL INSTITUTION OBLIGATIONS WHEN SERVED WITH WRIT OF GARNISHMENT. (1) If a notice of garnishment is served upon a financial institution that has an account or accounts of the debtor, the financial institution shall conduct a garnishment review of all accounts in the name of the debtor before taking any action that may affect funds in those accounts.

(2) The garnishment review shall be limited to the sixty-four (64) day period immediately preceding the date of service upon the financial institution of the garnishment. Solely for purposes of the garnishment review, any balance in the accounts on the sixty-fourth day immediately preceding the date of service upon the financial institution of the garnishment shall

be deemed to be exempt. If the financial institution determines, solely from information transmitted to the financial institution by the payor, that one (1) or more payments of exempt funds as described in section [11-713](#)(1), (2) or (3), Idaho Code, were deposited by direct or electronic deposit payment in an account of the debtor the total balance of deposited exempt funds in the debtor account is not subject to garnishment.

(3) The financial institution conducting the garnishment review need only review information transmitted to the financial institution by the payor of direct or electronic deposit payments in making its determination that funds in the accounts are of the types of payments described in section [11-713](#)(1), (2) or (3), Idaho Code. The financial institution conducting the garnishment review shall have no obligation to inquire into the source of funds or examine any deposit item made by any means other than direct or electronic deposit, even if such review would disclose that the funds so deposited may be exempt from garnishment as described in section [11-713](#)(1), (2) or (3), Idaho Code.

(4) If a notice of right to garnish federal benefits from the United States government or from a state child support enforcement agency is attached to or included in the garnishment as provided in 31 CFR 212, the financial institution shall not conduct a garnishment account review under this section and shall proceed on the garnishment.

(5) A financial institution conducting a garnishment review as required by this section is immune from civil liability to the garnishor, debtor or account owner from any act or omission with respect to the garnishment review, including without limitation, any incorrect determination made after applying good faith methods for determining whether funds in an account are exempt. If a court determines that a financial institution erred in its identification of funds in an account as exempt or nonexempt, the sole remedy in exemption proceedings shall be issuance of an order of the court that the financial institution must adjust its actions with respect to a writ of execution as soon as possible. A financial institution is not liable to an account holder or garnishor, and may not be assessed any penalty, by reason of any action or inaction in good faith including:

- (a) Failure to deliver any funds;
- (b) Failure to refuse to deliver any funds;
- (c) Failure to provide the required notices to an account holder;
- (d) Customary clearing and settlement adjustments made to a debtor's account that affect the balance in the debtor's account; and
- (e) Any bona fide errors that occur despite reasonable procedures implemented by the financial institution to prevent those errors.

[11-714, added 2017, ch. 303, sec. 9, p. 809.]

11-715. LIABILITY OF GARNISHEE. All persons having in their possession or under their control, any credits or other personal property belonging to the judgment debtor, at the time of service upon them of a copy of the writ and notice, as provided in sections [11-711](#) and [11-712](#), Idaho Code, shall be, unless such property be delivered up or transferred, or such debts be paid to the sheriff, liable to the judgment creditor for the amount of such credits, property, or debts, until the garnishment be discharged or any judgment recovered by him be satisfied.

[11-715, added 2017, ch. 303, sec. 9, p. 810.]



11-716. NOTICE OF GARNISHMENT -- DISCHARGE OF GARNISHEE. Any person who has been served with a copy of the writ and notice as provided in sections [8-506](#), [11-706](#), [11-707](#), [11-709](#), [11-710](#) and [11-715](#), Idaho Code, shall be deemed a garnishee, and service of copy of writ and the notice therein provided for, shall, for the purpose of sections [11-708](#), [11-711](#), [11-716](#), [11-719](#) through [11-727](#), [11-730](#) and [11-731](#), Idaho Code, be deemed to be notice of garnishment, and whenever any person shall have been served with notice of garnishment as herein defined, he may discharge himself by paying or delivering to the officer all debts owing by him to the judgment debtor, or a portion thereof sufficient to discharge the claim of the judgment creditor, or any or all money of the judgment debtor in his hands to a similar amount, taking a receipt therefor from the officer, that shall discharge such person from any and all liability to the extent of such payment, and that shall be held by the officer subject to the orders of the court out of which the writ issued.

[11-716, added 2017, ch. 303, sec. 9, p. 810.]

11-717. EXAMINATION OF GARNISHEE. Any person owing debts to the judgment debtor, or having in his possession or under his control, any credits or other personal property belonging to the judgment debtor, may be required to attend before the court or judge, or a referee appointed by the court or judge, and be examined on oath respecting the same. If the garnishee be a corporation the officer or agent thereof having knowledge of the fact sought to be established may be required to attend and give evidence thereof. The judgment debtor may also be required to attend for the purpose of giving information respecting his property and may be examined on oath. The court or judge may, after such examination, order personal property capable of manual delivery to be delivered to the sheriff on such terms as may be just, having reference to any liens or claims against the same, and a memorandum to be given of all other personal property, containing the amount and description thereof.

[11-717, added 2017, ch. 303, sec. 9, p. 810.]

11-718. DEBTS OWING BY STATE OF IDAHO SUBJECT TO EXECUTION OR GARNISHMENT AFTER JUDGMENT. (1) Debts, moneys and credits due or owing by the state of Idaho to any person whomsoever, except an elective official of the state of Idaho, shall be subject to execution and garnishment after final judgment against such person for the satisfaction of such judgment by service by the sheriff of the debtor's county of residence in Idaho, upon the state controller of a copy of the writ of execution and a notice of garnishment signed by such officer in duplicate. The state controller shall at the time of such service collect a fee of ten dollars (\$10.00) therefor from said officer. The state controller shall thereafter have a period of thirty (30) days in which to answer said notice of garnishment. The state controller shall pay, in the usual manner provided by law to the officer serving said writ of execution and notice of judgment, the amount necessary to satisfy said judgment excluding any exemption as provided by law. The officer's receipt therefor shall be a sufficient release of the state of Idaho and the state controller, of said claim of such person.

(2) The tax refund of any taxpayer may be subject to execution and garnishment under this section. In the case of garnishment of a tax refund due to a taxpayer, the plaintiff or his attorney shall provide in the written in-

structions to the Ada county sheriff the full name and social security number of the taxpayer subject to the garnishment, that shall be served with the writ of execution and notice of garnishment. The Ada county sheriff, state controller and state tax commission shall cooperate as necessary, including the sharing of garnishee information, in order to carry out the garnishment of a tax refund as provided in this section.

(3) Notwithstanding any provision in this title to the contrary, in the case of garnishment of a tax refund due to a taxpayer, the state controller shall hold the writ for a period of one hundred fifty (150) days after service or until the date it is determined that a refund is due the taxpayer, whichever occurs first, at which time the state controller shall thereafter have a period of thirty (30) days in which to answer such notice of garnishment. The Ada county sheriff shall file a return on the writ as soon as practicable after receipt of the state controller's answer, but if no answer is received from the state controller by one hundred ninety (190) days after service, the sheriff shall file a final return to that effect and close the garnishment.

[11-718, added 2017, ch. 303, sec. 9, p. 810.]

11-719. ANSWER TO INTERROGATORIES -- JUDGMENT AGAINST GARNISHEE. Upon a copy of the interrogatories being served upon him, the garnishee shall make full and true answer to the same under oath and filed in the cause within five (5) days thereafter. If he fails to do so, the judgment creditor may take judgment against him by default, or the court may, upon motion, compel him to answer by attachment. But no final judgment shall be rendered against the garnishee until there shall be a final judgment against the judgment debtor; nor shall judgment be rendered for a greater amount than the debt claimed by the judgment creditor with interest and costs, nor for a greater amount than the garnishee shall appear to be liable for to the judgment debtor; nor shall execution issue against a garnishee until the maturity of his debt to the judgment debtor.

[11-719, added 2017, ch. 303, sec. 9, p. 811.]

11-720. EXCEPTION TO ANSWER -- AMENDMENT. The judgment creditor may except to the answer of the garnishee for insufficiency, and if adjudged insufficient, the court may allow him to amend it in such time and on such terms as shall be just.

[11-720, added 2017, ch. 303, sec. 9, p. 811.]

11-721. DENIAL OF ANSWER -- REPLICATION -- TRIAL, JUDGMENT AND EXECUTION. The judgment creditor may deny the answer of the garnishee in whole or in part without oath, and allege specially the grounds upon which a recovery is sought against the garnishee, to which the garnishee may reply either generally or specially, and the issue presented by such denial and reply, shall be tried as ordinary issues between judgment creditor and judgment debtor, and judgment rendered thereon and execution issued accordingly except as herein otherwise provided.

[11-721, added 2017, ch. 303, sec. 9, p. 811.]

11-722. JUDGMENT ON ANSWER -- COSTS AND ALLOWANCES. If the answer of the garnishee be not excepted to, or denied within three (3) days after its filing, unless the court, or judge in vacation, for good cause shown, gives longer time, it shall be taken to be true and sufficient, and if in such case any indebtedness or liability is admitted, judgment shall be rendered accordingly, and the garnishee shall be allowed a reasonable sum out of the funds or property confessed in his hands for his trouble and expense in answering. If all liability is denied, and the denial is uncontroverted, the garnishee shall be discharged at the cost of the judgment creditor. In contested cases the costs shall be adjudged as in ordinary cases between judgment creditor and judgment debtor.

[11-722, added 2017, ch. 303, sec. 9, p. 811.]

11-723. JUDGMENT AGAINST GARNISHEE. If the garnishee admits in his answer that he is indebted to the judgment debtor, or has money or property of the judgment debtor in his hands, or under his control, and fails or refuses to turn the same over to the officer as in section [11-716](#), Idaho Code, provided, the judgment creditor may move the court out of which the writ issued, on or before the return day thereof, for judgment against the garnishee for the amount of such admitted debt, or for the delivery to the officer of the money or property of the judgment debtor in his hands, to an amount sufficient to satisfy the judgment creditor's claim; serving the garnishee with due notice of the said motion; and at the hearing thereof the court shall render such judgment as shall be conformable to law and the facts shown to exist.

[11-723, added 2017, ch. 303, sec. 9, p. 812.]

11-724. ALLEGATION OF ASSIGNMENT OF DEBT -- PROCEDURE. If the garnishee shall allege in his answer that he is indebted to the judgment debtor, but declare his belief under oath that the debt has been assigned to some other person, while naming such person, and the judgment creditor shall file a reply, denying the fact, or the force and validity of the alleged assignment, the court shall thereupon make an order requiring the alleged assignee to appear, on a day to be therein named, and show cause why the alleged assignment should not be disregarded. Such order shall be served upon the supposed assignee, if within the jurisdiction of the court, at least fifteen (15) days before the return day thereof. But, if he cannot be found, or is out of the jurisdiction of the court, he may be brought in by publication as in other civil cases; provided, that the order shall be published instead of the summons, and that such publication need only be made for three (3) weeks successively, and that the last insertion thereof need not be more than fifteen (15) days before the return day thereof.

[11-724, added 2017, ch. 303, sec. 9, p. 812.]

11-725. ALLEGATION OF ASSIGNMENT OF DEBT -- TRIAL OF ISSUE. Upon the return day of the order of notice, or upon such other day to which the trial may be postponed, if the alleged assignee fails to appear, or appearing, fails to assert any claim as such assignee, the alleged assignment shall be disregarded, but if he shall appear and set up a claim as assignee, the existence, force and validity of the alleged assignment shall be tried as similar issues between judgment creditor and judgment debtor, and such judgment shall be rendered as shall be conformable to the facts and the law.

[11-725, added 2017, ch. 303, sec. 9, p. 812.]

11-726. LIABILITY OF GARNISHEE ON NEGOTIABLE PAPER. The garnishee shall not be held liable on any debt due upon negotiable paper unless such paper is delivered up to him, or he is fully exonerated or indemnified against any liability thereon after he may have satisfied the judgment. But if it shall be made to appear to the satisfaction of the court in which the proceedings are pending, that the paper is in the possession or control of the judgment debtor, he may be compelled to produce it by attachment.

[11-726, added 2017, ch. 303, sec. 9, p. 812.]

11-727. LIABILITY OF OFFICERS AND EXECUTORS AS GARNISHEES. No sheriff, constable, or other officer charged with the collection of money shall, prior to the return day of the execution upon which the same may be made, be liable to be summoned as a garnishee, nor shall any county collector or municipal corporation or any officer thereof, nor administrator or executor of any estate, prior to the allowance of a demand found to be due by his estate, or prior to an order of distribution or for the payment of debts and legacies, be liable in their official capacities as garnishee.

[11-727, added 2017, ch. 303, sec. 9, p. 812.]

11-728. FEE FOR EMPLOYER -- GARNISHEE. When the garnishee is the employer of the judgment debtor, the garnishee may deduct a onetime fee to cover the costs associated with administering the garnishment. The fee to be deducted shall not exceed ten dollars (\$10.00) and shall be deducted from the employer's first answer to the writ from money remitted to the sheriff.

[11-728, added 2017, ch. 303, sec. 9, p. 812.]

11-729. SHERIFF FEE FOR SERVICE. (1) The board of county commissioners of each respective county shall have the power to set sheriff's fees by resolution of the board for serving an initial order of garnishment and writ of execution. The board may also set an additional lesser fee for making an interim return on a continuing garnishment to show disbursement of moneys held by the sheriff for return service, including for receiving and paying over money from any money garnishment, and including wage garnishment or financial institution garnishment. These fees shall be established using criteria determined by the board not to exceed actual costs directly incurred for order of garnishment and writ of execution service.

(2) At the time of adoption of the resolution establishing any fee authorized in this section, the board shall annually publish on the county website all the criteria used to establish the total fee and the value of each criterion's proportionate share of the total fee. The initial garnishment and continuing service fee herein allowed shall be collected from the judgment debtor.

[11-729, added 2017, ch. 303, sec. 9, p. 813.]

11-730. APPEALS IN GARNISHMENT PROCEEDINGS. Appeals may be taken, heard and determined in cases arising under sections [11-708](#), [11-711](#), [11-716](#), [11-719](#) through [11-727](#), and [11-731](#), Idaho Code, in the same manner and with

like effect as is now, or may hereafter be, provided by law for appeals in ordinary civil actions.

[11-730, added 2017, ch. 303, sec. 9, p. 813.]

11-731. APPLICATION OF PRECEDING SECTIONS. The provisions of sections [11-708](#), [11-711](#), [11-716](#), [11-719](#) through [11-727](#), and [11-730](#), Idaho Code, inclusive, shall apply to all courts of competent jurisdiction.

[11-731, added 2017, ch. 303, sec. 9, p. 813.]